

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.09.2020

CORAM:

THE HONOURABLE Mr.JUSTICE M.SUNDAR

Company Application No.186 of 2020

in

C.P.No.483 of 2000

&

C.P.No.483 of 2000

The Official Liquidator
High Court, Madras as the
Liquidator of
M/s. Muruganathan Mills Limited
(in Liquidation)

... Applicant

Company Application filed under Section 481 of the Companies Act, 1956 read with Rule 9, 11(b) of the Companies (Court) Rule, 1959 to take this report on record on the file of this Hon'ble Court, to pass an order that it is just and reasonable to dissolve M/s.Muruganathan Mills Limited (under liquidation) finally and accordingly to pass consequential and appropriate orders; to pass an order permitting the Official Liquidator to file the final account without auditing as nothing survive in the company in liquidation; to permit the Official Liquidator to withdraw the applications under Section 542 and 543 and 446 of the Companies Act, 1956 since the applications have been filed after expiry of limitation period; to permit the Official Liquidator to transfer the available amount to undistributed assets as envisaged under Section 555 of the Companies Act, 1956 after meeting all incidental expenses including the present application and to pass any such other orders that the Hon'ble Court deem fit and proper in the circumstances of the case.

For Petitioner : Mr.Bavisetty Sridhar
Deputy Official Liquidator

ORDER

Captioned company application has been taken out by 'Official Liquidator attached to this Court' ('OL' for the sake of brevity) and 'Deputy Official Liquidator' ('Deputy OL' for the sake of brevity) Mr.Bavisetty Sridhar is before this Company Court (on behalf of OL) in this web-hearing on a video-conferencing platform, prayer in the captioned application is a multi-limbed prayer, which as culled out from the judge's summons reads as follows:

'a) to take this report on record on the file of this Hon'ble Court;

b) to pass an order that it is just and reasonable to dissolve M/s.Muruganathan Mills Limited (under liquidation) finally and accordingly to pass consequential and appropriate orders;

c) to pass an order permitting the Official Liquidator to file the final account without auditing as nothing survive in the company in liquidation; to permit the Official Liquidator to withdraw the applications under Section 542 and 543 and 446 of the Companies Act, 1956 since the applications have been filed after expiry of limitation period;

d) to permit the Official Liquidator to transfer the available

amount to undistributed assets as envisaged under Section 555 of the Companies Act, 1956 after meeting all incidental expenses including the present application; and

e) to pass any such other orders that the Hon'ble Court deem fit and proper in the circumstances of the case.'

2. To be noted, two limbs of prayer i.e., last two limbs have been given the same alpha (e). Learned Deputy OL submits that this is a typographical error. Therefore, the second alpha (e) is being treated as (f).

3. To be noted, captioned application has been taken out by OL *inter alia* under Section 481 of 'The Companies Act, 1956' (hereinafter 'said Act' for the sake of brevity).

4. Further to be noted, 'Muruganathan Mills Limited' (hereinafter 'said company' for the sake of brevity) is the company under liquidation in the captioned main CP, which is at the instance of 'Board for Industrial and Financial Construction' (BIFR). Learned Deputy OL submits that a 'report of OL dated 30.12.2019' (hereinafter 'said report' for the sake of brevity) has been filed in support of captioned application.

5. Learned Deputy OL advertng to said report submits that this Company Court vide order dated 29.09.2000 made in captioned main CP appointed OL as liquidator of said Company with a direction to take

charge of assets and effects of said company. It is submitted that the process of liquidation unfurled thereafter. It is submitted that no claims are pending. One application for misfeasance taken out by OL being C.A.No.1644 of 2005 is pending and the same will be withdrawn as not pressed as no useful purpose would be served by pursuing the same is Deputy OL's say. This is articulated in Paragraph 7 of said report which reads as follows:

'7.It is submitted that the Official Liquidator has filed misfeasance application under Section 542 and 543 of the Companies Act, 1956 in C.A.No.1644 of 2005 against the Ex-directors of the company and also filed an application under Section 446 of the Companies Act, 1956 against the sundry debtors of the company in liquidation which are pending before the Hon'ble Court. The said application may treated as withdrawn since the application have been filed after expiry of limitation period.'

6. To be noted, there is also one limb of prayer in this regard, namely prayer limb (d) in the captioned application. However, it is brought to the notice of this Court by the Registry that C.A.No.1644 of 2015 has already been disposed of by another Hon'ble single Judge as early as on 12.03.2012 itself.

7. Furthermore, learned Deputy OL draws the attention of this Court

to paragraphs 8 to 10 of said report and submits that the same are *inter alia* most relevant for the multi-limbed prayer in captioned application for dissolution. Paragraphs 8 to 10 of said report read as follows:

'8. It is submitted that as on the date of filing of the present application only an amount of Rs.1,76,614.98 is available with the Official Liquidator. Therefore, the said amount available with the Official Liquidator is not sufficient to declare further dividend to the creditors of the company. In view of the above, the funds available is to be transferred to the undistributed assets account as envisaged under Section 555 of the Companies Act, 1956 after meeting all incidental expenses including the present application.

9. It is submitted that the company under liquidation was ordered to be wound up in the year 2000 and after expiry of 19 years and no assets are pending to be realised. Nothing survive in the affairs of the company and the Official Liquidator has no other option except filing the present application under Section 481 of the Act for dissolving the company finally. It is also submitted that no fruitful purpose would be served by allowing this company under liquidation to continue as a company under liquidation.

10. It is submitted that there are no assets available and no payment would be made out of the funds and therefore, it is inevitable for the Official Liquidator to file the final account without audit of the same in view of the prevailing facts and circumstances of the present application. The final accounts is attached herewith and marked as Annexure-B.'

8. This Court, having heard learned Deputy OL and having perused

said report, in the light of the narrative thus far, is left with the considered opinion that it would be just and reasonable in the circumstances of this case to order dissolution of said company.

9. Therefore, captioned Company Application and Captioned CP are disposed of by acceding to prayer limbs (b), (c) and (e) in the multi-limbed prayer in the captioned application. With regard to limb (d) C.A.No.1644 of 2005 (as alluded to supra), has already been disposed of vide order dated 12.03.2012.

Captioned company application and captioned main CP are ordered on above terms. There shall be no order as to costs.

11.09.2020

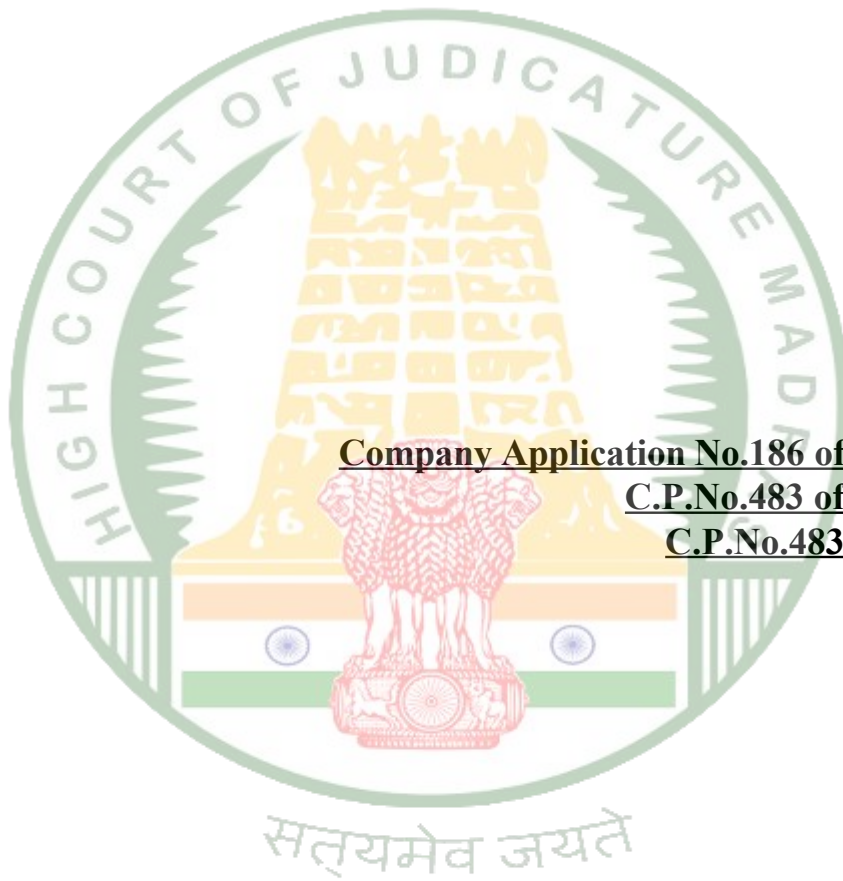
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